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Attorneys for Defendant Apple Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

CYWEE GROUP LTD.,
Plaintiff,

APPLE INC.,
Defendant.

No. 3:14-cv-01853-JSW

**JOINT CLAIM
CONSTRUCTION
PREHEARING STATEMENT**

Judge: Jeffrey S. White

Tutorial: March 23, 2015

Hearing: March 30, 2015, 1:30 p.m.

1 Pursuant to Patent L.R. 4-3, this Court’s Standing Order for Patent Cases
2 (“Standing Order”), and the Court’s Order Granting Stipulation for Extension of
3 Time for Patent Local Rule 4-2 and 4-3 Deadlines (ECF No. 46), Plaintiff CyWee
4 Group Ltd. (“CyWee”) and Defendant Apple Inc. (“Apple”) hereby submit this
5 Joint Claim Construction and Prehearing Statement.

6 Pursuant to the Standing Order, attached as Exhibit A is a copy of U.S.
7 Patent No. 8,441,438 (the “’438 patent”) and U.S. Patent No. 8,552,978 (the “’978
8 patent”).

9 **I. PATENT L.R. 4-3(a): AGREED CONSTRUCTIONS**

10 The parties agree that “second computing processor” as recited in claim 1 of
11 the ’438 patent should be construed as “a computing processor physically distinct
12 from but interoperable with the first computing processor.”

13 The parties agree that “measured magnetisms” as recited in claims 1 and 10
14 of the ’978 patent should be construed as “magnetisms measured by the
15 magnetometer.”

16 **II. PATENT L.R. 4-3(b) PROPOSED CONSTRUCTIONS OF**
17 **DISPUTED TERMS**

18 The parties dispute the construction of the following terms:

19 1. “receiving and calculating said first and second signal sets from the data
20 transmitting unit”

21 2. “utilizing a comparison to compare the first signal set with the second
22 signal set”

23 3. “measured state includes a measurement of said second signal set and a
24 predicted measurement obtained based on the first signal set without using any
25 derivatives of the first signal set”

26 4. “using the orientation output and the rotation output to generate a
27

1 transformed output associated with a fixed reference frame associated with a
2 display device”

3 5. “predicted magnetism”

4 6. “quaternion”

5 The chart attached as Exhibit B contains each party’s proposed
6 constructions of these disputed terms, together with an identification of intrinsic
7 evidence and extrinsic evidence proffered by the parties in support of their
8 constructions. Each party reserves the right to refer to the evidence proffered by
9 the other.

10 **III. PATENT L.R. 4-3(c): TEN MOST SIGNIFICANT DISPUTED**
11 **CLAIM TERMS FOR CONSTRUCTION**

12 The parties state that the six claim terms identified in Section II above are
13 believed to be most significant at this time to the resolution of this case.

14 CyWee’s Statement on case or claim dispositive terms: The terms
15 “receiving and calculating said first and second signal sets from the data
16 transmitting unit” and “calculating using the first signal set and the second signal
17 set” are potentially case dispositive if the Court agrees with Apple that the terms
18 are indefinite. The term “using the orientation output and the rotation output to
19 generate a transformed output associated with a fixed reference frame associated
20 with a display device” is potentially case dispositive as to infringement. Further,
21 CyWee disputes Apple’s arguments regarding indefiniteness and noninfringement
22 below.

23 Apple’s Statement on case or claim dispositive terms:

24 A finding of indefiniteness for disputed claim terms 1 and 2 would render
25 invalid all the asserted claims of the ’438 patent (claims 1 and 3-5).

26 Apple does not infringe under any of the proposed constructions. Adopting
27

1 Apple's proposed construction for disputed claim term 3 would provide an
2 additional and independent ground for noninfringement of all asserted claims of
3 the '438 patent, and adopting Apple's proposed construction for disputed claim
4 terms 4 and 5 would provide additional and independent grounds for
5 noninfringement of all asserted claims of the '978 patent (claims 1, 3, 10, and 12).

6 Apple is not aware of the construction of disputed claim term 6 as being
7 dispositive or relevant to any dispute between the parties.

8 **IV. PATENT L.R. 4-3(d): ANTICIPATED LENGTH OF TIME**

9 The parties anticipate that the claim construction hearing should last
10 approximately two to three hours.

11 **V. PATENT L.R. 4-3(e): WITNESSES**

12 CyWee expressly reserves the right to rely on testimony of its expert,
13 Sheikh Iqbal Ahamed, Ph.D., in support of its proposed constructions and to rebut
14 Apple's indefiniteness arguments. Further, CyWee reserves the right to submit a
15 request to the Court pursuant to Paragraph 10 of this Court's Standing Order for
16 Patent Cases to request this Court's approval so that its expert witness may testify
17 live at the claim construction hearing. A summary of Professor Ahamed's
18 testimony appears in the chart attached as Exhibit B.

19 As detailed in Exhibit B, Apple has identified expert testimony from Dr.
20 Shwetak Patel it may rely on to support its claim construction briefing. Consistent
21 with paragraph 10 of the Court's Standing Order for Patent Cases, Apple does not
22 believe that live testimony from experts at the claim construction hearing would
23 be necessary or useful. To the extent such testimony is allowed, Apple reserves
24 the right to rely on Dr. Patel's testimony.

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26 [Signature on next page]
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Dated: January 12, 2015

Respectfully submitted,

/s/ Jill F. Kopeikin

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[Signatures continued on next page]

1 Dated: January 12, 2015

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Attorneys for Defendant Apple Inc.

14 **CERTIFICATE OF SERVICE**

16 The undersigned certifies that counsel of record who are deemed to have consented
17 to electronic service are being served on January 12, 2015, with a copy of this
18 document via the Court's CM/ECF system per Local Rules.

19 By: /s/ Jill F. Kopeikin

1 I, Jill F. Kopeikin, am counsel for Plaintiff Cywee Group LTD. in this
2 action. I am the registered ECF user under whose name and password this Joint
3 Joint Claim Construction Prehearing Statement is being filed. Pursuant to Civil Local
4 Rule 5-1(i), I attest that the concurrence in the filing of this document has been
5 obtained from each of the other signatories.

6
7 DATED: January 12, 20155

GCA LAW PARTNERS LLP

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9 By: /s/ Jill F. Kopeikin
Jill F. Kopeikin

10 Attorneys for CYWEE GROUP LTD.
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